

JUN 25 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SETSUKO BETTY POST,

Petitioner - Appellant,

v.

VICTOR C. RIVAS, Deputy Probation
Officer; RICHARD SHUMSKY, Chief
Probation Officer,

Respondents - Appellees.

No. 06-55253

D.C. No. CV-03-03094-TJH

ORDER OF DISMISSAL*

Appeal from the United States District Court
for the Central District of California
Terry J. Hatter, District Judge, Presiding

Argued and Submitted June 4, 2008
Pasadena, California

Before: THOMPSON, O'SCANNLAIN, and TALLMAN, Circuit Judges.

Petitioner Setsuko Betty Post appeals the district court's denial of her 28 U.S.C. § 2254 habeas corpus petition challenging her jury conviction for workers compensation insurance fraud and perjury. We do not have jurisdiction to hear

* This Order is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Post's appeal, because her claim is grounded in the California Court of Appeal's interpretation of California's statutes governing perjury and the taking of depositions, which are matters of state law. *See Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991). Post has thus failed to put forth a cognizable claim for federal habeas corpus review. *See* 28 U.S.C. § 2254(d)(1).

In addition, the California Supreme Court denied Post's state habeas petition because Post was not in custody when she filed that proceeding. *See In re Wessley W.*, 181 Cal. Rptr. 401, 403 (Cal. Ct. App. 1981). Post's lack of custody is a procedural bar, and there is no basis upon which we may premise jurisdiction to hear this appeal.

DISMISSED.